IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 481 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DIVISIONAL CONTROLLER GSRTC

Versus

RAVJIBHAI BABUBHAI PARMAR

Appearance:

1. Special Civil Application No. 481 of 1996

MR HARDIK C RAWAL for Petitioner No. 1

MR JS BRAHMBHATT for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 18/10/2004

ORAL JUDGEMENT

Arguing this petition filed under Article 227 of the Constitution, it was submitted on behalf of the petitioner that the impugned award of the Labour Court

dated 7.07.1995 in Reference (LCN) No. 405 of 1989 was required to be quashed in view of the fact that the respondent was dismissed for the act of serious misconduct, after conducting a departmental inquiry which was not even challenged. It was also submitted that though evidence was lead before the Labour Court by the respondent the charge of remaining absent without leave was proved beyond doubt.

2. It was evident from bare reading of the impugned award that the Labour Court had interfered with the punishment imposed by the petitioner mainly on the basis that the respondent had been seriously injured and a steel rod had to be inserted in his hand by necessary surgical procedure. This reason for absence from service was substantiated by a medical certificate and a report in that regard was submitted to the Depot Manager of the petitioner. The submission of the report as well as medical certificate appeared to have been mentioned in the findings of the inquiry itself. They were submitted at least before the imposition of punishment of dismissal. In these facts the Labour Court found interference with the order of punishment to be justified since the absence without leave was explained by sufficient and cogent reasons. The punishment of dismissal was accordingly found to be too harsh, and in exercise of the powers of the Labour Court under Section 11A of the Industrial Disputes Act, 1947, the impugned order to reinstate the respondent with 50% backwages appears to have been made.

3. At the time of admission of this petition, interim relief was restricted to the part of the impugned order by which 50% of the backwages were ordered to be paid. No ground or reason is made out to interfere with the order granting 50% backwages and the order to entrust to the respondent, as far as possible, some lighter work. In these facts the petition filed exclusively under Article 227 of the Constitution is dismissed and Rule is discharged with no order as to costs.

(D.H.Waghela,J)

Jayanti*